

BOROUGH OF RIVER EDGE  
LAND USE BOARD  
MEETING MINUTES  
COUNCIL CHAMBERS  
October 7, 2020

Zoom - Meeting called order at 7:30 p.m.

Roll call please:

Mayor Papaleo - Here  
Chairman, James Arakelian - Here  
Vice Chairman, Dick Mehrman - Here  
Lou Grasso - Absent  
Ryan Gibbons - Here  
Michael Krey – Here  
Eileen Boland – Absent  
Chris Caslin- Here  
Alphonse Bartelloni – Here  
Dario Chinigo – Here  
Gary Esposito - Here

ALSO PRESENT:

Marina Stinley, Esq.  
Thomas Behrens, Planner

Chairman Arakelian made the required announcement concerning the Open Public Meetings Act: Adequate notice of this meeting has been displayed on both the bulletin board at Borough Hall, and published in the Record and Ridgewood News for the people who are interested in this meeting. No flag salute. No fire exits to worry about.

August 19 – Motion to accept minutes – Mr. Mehrman, Second – Mr. Krey

September 16, 2020 – Motion to accept minutes – Mr. Gibbons, Second - Dario Chinigo, all in favor – aye, any opposed and abstained.

Minutes approved. Ms. Stinley addresses the Board with respect to the new rules for on line meetings State Division of Local Government Services put out emergency regulations and protocols for remote

public meetings. Her office is in the process of preparing a Resolution for the land use board. The Resolution that is put forward just has to set forth standard rules that the Board will follow for remote meetings including the procedure for commenting, people participating by phone or by ZOOM. That Resolution will be ready for the next meeting.

### **Memorializations:**

Darko and Tamara Subsic, 320 Wales Avenue, Block 115, Lot 23 they were approved at the last meeting. Hearing no comments or objections from the Board Chairman Arakelian request a Mouton to approve the memorialization. So made by Mr. Mehrman, Second, Mr. Gibbons.

Roll Call – Mr. Mayor -yes; Chairman Arakelian – yes; Ms. Boland was absent; Mr. Bartelloni was absent at the last meeting when the Resolution was made; Mr. Mehrman -yes; Mr. Grasso is absent tonight; Mr. Krey- yes; Mr. Caslin -yes; Councilman Chinigo – yes; Mr. Gibbons – yes; Mr. Esposito – yes.

Club Feathers d/b/a – PDJ Restaurant, LLC, 77 Kinderkamack Road, Block 1410, Lot 4.03, they were approved for a food handlers license, the memorialization is subject to the applicant paying his taxes. Ms. Stinley will check with the tax office. So, the memorialization tonight would be subject to their taxes being caught up by October 31 if that does not happen this memorialization will be put on hold until they pay their taxes.

Chairman Arakelian motion on this application - Mr. Gibbons makes a motion to accept as written, second – Mr. Krey. Roll call - Mr. Mayor -yes; Chairman Arakelian – yes; Mr. Mehrman -yes; Mr. Grasso is absent tonight; Mr. Krey- yes; Mr. Caslin -yes; Councilman Chinigo – yes; Mr. Gibbons – yes; Mr. Esposito – yes. Chairman Arakelian advises Ed Alter to send Feathers a reminder that their memorialization has been passed but if they are not caught up with their taxes by the 31<sup>st</sup> that will be nullified and check wit the tax collector and just let him know where they are with that.

### **Completeness Review**

Hye Annie Lee, 830 Kinderkamack Road, Block 212, Lot 23 – Food Handlers License

Site plan approval – Ms. Stinley gives the Board jurisdiction to her the application. Mr. Behrens explains to the Board that he has not seen a floor plan from this applicant, he will wait for testimony from the applicant to see if the floor plan changed in anyway and leaves it up the Board if they feel they have enough information to move forward on this.

The applicant explains to the Board that her business is pickling vegetables. She brings in vegetables, washes them, chops them and then jar them. She will be doing this all on site. She will be opening the space to the public and it will run as a small retail shop. Motion to move to completeness – Mr. Merhman, so made – Second, Mr. Bartelloni. Roll call - Mr. Mayor -yes; Chairman Arakelian – yes; Ms. Boland is absent; Mr. Bartelloni – yes; Mr. Mehrman -yes; Mr. Grasso is absent tonight; Mr. Krey- yes; Mr. Caslin -yes; Councilman Chinigo – yes; Mr. Gibbons – yes; Mr. Esposito – yes.

Tarikbin and Fatma Ok, 364 Lee Avenue, Block 1002, Lot 54, proposed pool and associated improvements. Violates front yard setback – variance required.

Benjamin Wine, Esq., attorney for applicant. Ms. Stinley gives the Board jurisdiction to move forward. Mr. Behrens also advises the Board that they have all the information and materials to determine the application complete. Motion to move this to the regular meeting - Mr. Caslin, so moved, second – Mr. Bartelloni. Roll call - Mr. Mayor -yes; Chairman Arakelian – yes; Ms. Boland is absent; Mr. Bartelloni – yes; Mr. Mehrman -yes; Mr. Grasso is absent tonight; Mr. Krey- yes; Mr. Caslin -yes; Councilman Chinigo – yes; Mr. Gibbons – yes; Mr. Esposito – yes.

### **New Business**

Hye Annie Lee, 830 Kinderkamack Road, Block 212, Lot 23 – Food License application. Applicant is sworn in. Applicant explains to the Board what her business will be. She explains what she needs from the space, i.e a sink to wash the vegetables and a few work stations/tables to cut the vegetable and jar them. Chairman Arakelian asks the applicant how she will transport her product to the supermarket. Applicant advises that they use their own cars to make deliveries. He asks the same question regarding delivery of the produce to the store. Applicant advises that they will be using distributors to drop the off in front of the store by mid-sized vans.

Mr. Behrens - asks applicant what the proposed hours of operation. Applicant responds that they will most likely be in the space preparing the Kimchi at 7:00 a.m. but the hours of operation for the public will be most likely 11:00/11:30 a/m. to 4:00 p.m., six days a week, Sunday being closed. Two employees. Mr. Behrens asked the applicant if they would be making any changes to their tenant space, if any. Applicant responds that they will be adhering to all the requirements of the River Edge Health Department and they will just have work tables where they can do their work and a few refrigerators where they can store the pickles and have them available to the public. It will be a typical store layout wherein the front of the store facing the street is the storefront and a closed off area in the back where you do the prep work. They have no access to the basement or to the second floor.

Chairman Arakelian opens questions from the Board. Mr. Caslin - Inquired as to how many customers she expected. Right now her business just delivers the pickles to supermarkets. This is a new business they are attempting having a storefront therefore it is difficult for her to predict or answer that question. Mr. Mehrman asks applicant what their proposed waste disposal will be. They will be carrying out their waste. His next questions is regarding excess liquids, i.e pickle juice. They jar them as they cut them and then jar them immediately so there is no liquid being disposed of. Mr. Mehrman advises that they need to abide by the Borough's regulations as to signage. Chairman Chinigo inquires as to how many sinks will be necessary for their operation. Applicant responds that there will be three separate sinks with different compartments at the moment but she needs to hear from the health department as to what is required. The Mayor asks applicant to confirm that there will be no cooking on the premises. Therefore no ventilation is necessary. Chairman Arakelian suggests that a stipulation be put into the approval that there will be no cooking on the premises and if that were to change in the future they would have to come before the Board again. Applicant agreed. Chairman Arakelian requests Motion to open to the public. Mr. Krey – so moved; second Mr. Caslin. All in favor – aye. Any opposed any abstained. No public members are in the Zoom meeting. Motion to close to the public – So moved – Mr. Gibbons; second – Mr. Bartelloni. All in favor – aye. Any opposed any abstained. Motion on the application – Mr. Mehrman makes a motion regarding the

proposed retail pickling at 830 Kinderkamack Road, Block 212, Lot 23 we grant approval of a food handlers license with the understanding that there will be no onsite cooking at the location and operation of the business will take place on the street level floor as opposed to below, there are some parking spots in the rear associated with this tenancy change and that the applicant agrees to adhere to the Borough of River Edge sign and all applicable health department regulations. Second – Councilman Chinigo. Roll call - Mr. Mayor -yes; Chairman Arakelian – yes; Ms. Boland is absent; Mr. Bartelloni – yes; Mr. Mehrman -yes; Mr. Grasso is absent tonight; Mr. Krey- yes; Mr. Caslin -yes; Councilman Chinigo – yes; Mr. Gibbons – yes; Mr. Esposito – yes. Motion passes.

Tarikbin and Fatma Ok, 364 Lee Avenue, Block 1002, Lot 54, proposed pool and associated improvements. Violates front yard setback – variance required.

Attorney Benjamin Wine addresses the Board with an overview of the applicants applicants. They are looking to install a standard residential swimming pool on their property. Variances that are required are due to the shape of the lot. The lot actually sits on what he called a peninsula it fronts three separate streets and the specific variances required just due to the placement of swimming pool is in what is considered a front yard again as a result of the three street envelope as well as the setback from one of those streets and that is where 25 feet would be required from the front yard and the applicant is proposing 17.4 feet.

Matthew Wilder, Engineer and Planner for the applicant addresses the Board. The testimony he is providing this evening is as a Planner. He prepared the plot plan that is in front of the Board this evening. The applicants are proposing a 15' x 32' pool north of the existing building which is within the front yard of Lee Avenue, so what is required is 25 feet and they are proposing 17.4 feet setback to Lee Avenue and then an 11 foot setback to the residential neighbor to the east of the subject parcel. While designing the plan he realized that they could not put the pool behind the house, so the minimum setback from the bumped out portion on the Eastman side is only 20.7 feet. When you consider the 10 foot setback from that neighboring property the pool could not be accommodated there. Going south further south toward Howland you get a little more real estate to deal with but again there is 27 ½ feet of distance between the rear of the structure and the eastern property line. So when considering the 10 foot setback and having some setback from the house you would end up having a pool that would be 10-11 feet wide which is too small. So when deciding the placement of the pool the greatest setback was from Lee Avenue. So the engineer thought it would be less intrusive to place the pool north of the existing dwelling partially with the Lee Avenue right-of-way. The pool will not be visible from the street at all. The engineer believe it is a very clear case of a hardship variance he also acknowledges that sometimes a C2 variance criteria which is commonly known as flexible criteria variance does provide a little more flexibility. The engineer cites 40:55D-70 C2.

The Board previously made a determination that this property is subject to a hardship being it fronts on three roadways. The engineer cited 40:55D-70:C1-C. There is no room to place a pool on this site that would be fully conforming. So they placed it in a place that would be most conforming. Due to the fact that the property has three roadway frontages and is uniquely shaped they hardship is clearly evident. There is a privacy fence on this property which was previously granted a variance that included the requirement for planting of evergreens, there is a visual buffer on Lee Avenue. The pool

locations complies with the minimum setback to the neighboring property and the site as a whole is in compliance with the impervious coverage limit. The expert cites Gold C of the municipal land use law which is to provide sufficient space and appropriate locations for a variety of uses.

Mr. Behrens – wanted clarification as to the following regarding the site plan;

- Hatched area which talks about a Deed overlap;

Engineer – They are not showing that deed overly as part of this property. He explains junior and senior rights when doing subdivisions and surveys – meaning as you go down the road the last created property gets whatever is left. Based on the engineer's research, the deed for the area, based on the timing when deeds were recorded and subdivisions were approved, there is a deed overlap where this deed treats it as if it has an additional 10 feet of property but actually it does not because of the junior and senior rights and the timing of approvals and subdivisions. That is why its not included in their plan as it is not being including in this project.

Mr. Behrens asks if this is 100% certain that there is no chance that this will be included in this parcel under any circumstance.

Engineer – Based on the research he has performed he states – “yes that is correct”.

- Mr. Behrens- Alternative locations for the pool. Southeast corner of the yard that is fenced in where the existing patio is.

Engineer - They have 27 ½ feet available in that area and the pool is 15 feet, with variance relief it could be placed there. He believes the location they have now is a much better location.

- Mr. Behrens- Grading and retaining wall in the vicinity of the pool. He requested an overview and how tall the wall would be.

Engineer – No retaining wall is proposed. What they show around the pool is the coping and the concrete surround around the pool. As it shows now flow and drainage going towards Lee Avenue and Howland, they are going to send water around the pool and out to Lee Avenue.

- Mr. Behrens – What is the line north of the pool with the number 54 on it and cuts through the fence?

Engineer – That is an elevation contour. They will shape the land in this location to be at elevation 54.

Mr. Behrens – He understands from the negative criteria of the standpoint whether or not there are any substantial detriments to the public good that there is some element of screening. He is not 100% sold that there is no impact to the Master Plan and zoning ordinance but he does understand the physical aspects of the property – three front

yards in this case. Mr. Behrens asks how this lot differs from the typical corner lot in the Borough of River Edge, so if the Board were to grant a variance here that this lot in particular presents a unique situation that they would not be in the position to have to grant similar relief for other corner lots, granted that every application rests on its own merits.

Engineer – Difference is a traditional corner lot would have two yards that are required to to be 25 feet because a pool cannot be closer than 25 feet to street and the remaining yards would have to be a 10 foot setback. So since this property is encumbered by three streets they have three 25 feet setbacks and one 10 foot setback. So this is where he believes the discrepancy exists.

Chairman Arakelian opens up questions to the Board. Mr. Behrens asks about the 17.4 as to what portion of the pool for Resolution purposes. It is to the water's edge and typically the coping is 3 inches, so they would be proposing 17.1 feet to Lee Avenue to the outside of the pool coping.

Mr. Mehrman states that he cannot support the application for the setback variance and the resulting over developed fenced rear yard condition.

Attorney Wine responds that the purpose of the pool in and of itself can be qualified as a play area. The applicants feel that the pool is a significant benefit to their family.

Mr. Mehrman responds that he personally thinks the applicant is trying to shoe horn a pool in a very limited backyard and creating an undersized situation.

Overall several Board members questioned the concrete, water flow, fencing, a smaller pool, location. The size of the pool seems to be a question all Board members addressed. They would like a smaller pool.

Applicant's attorney suggests dropping the pool a size smaller instead of it being 15' x 32' to 15' x 28'. Engineer returns to explain to the Board what the difference would be and what it means to the plan as it stands. The smaller pool would give further 1.9' setback from Lee Avenue from what they are currently proposing. 17.1 is current proposal and when the shift it and shorten it they go from 17.1 to 19.0. Mr. Wine then asks the Board if this change would be acceptable. Chairman Arakelian opens up questions to the Board once again.

Mr. Mehrman asks the engineer what significant amount, if any, would that reduction be. The engineer responds 15 feet so there will be a 60 square foot reduction. Mr. Mehrman feels the the reduction is de minimis and his opinion remains the same. Chairman Arakelian states that he does not feel a pool is a detriment and that as long as the Borough engineer is okay with any type of run off that would occur with the additional improvement, he personally thinks in this case the property rights of the owner are probably more important than the detriment to the addition of a pool that no one will know is there unless they are invited in. Councilman Chinigo suggests that if the Board is considering allowing the 15' x 28' he would also ask that the Board allow considering also the 15' x 32' so they can get a vote on both. He doesn't feel that the 60 square foot difference is significant enough so that if we are going to allow him to put in this pool then let his kids do laps in the pool and a 32' pool at that

point will be much better for that regard. Councilman Chinigo suggests the Board vote on both of them.

Chairman Arakelian asks the Board to entertain a Motion on the original application as written with the inclusion of the things that the Board asked for including the review by the Borough Engineer for any water run off. Motion to approve the application based upon the original application with the original pool size. So moved, Councilman Chinigo, Second Mr. Bartelloni. Ms. Stinley wants to clarify what the original setback on Lee Road is (17.1) which is correct.

Roll call - Mr. Mayor -no; Chairman Arakelian – yes; Ms. Boland is absent; Mr. Bartelloni – yes; Mr. Mehrman -no; Mr. Grasso is absent tonight; Mr. Krey- yes; Mr. Caslin -no; Councilman Chinigo – yes; Mr. Gibbons – yes; Mr. Esposito – yes. Motion passes.

### **Adoption of the Master Plan Amendment for the 2020 Housing Element and Fair Housing Share Plan**

Mr. Behrens – The Board has been involved in the Borough's third round of affordably housing process and they are nearing the end of the compliance phase and addressing the Borough's third round of affordable housing obligations. The Borough has its next compliance hearing with the court on October 21 and there are just a few remaining compliance retirements.

1. Adoption of the Master Plan Amendment for the 2020 Housing Element and Fair Housing Share Plan – provides site suitability analysis for the Borough' several affordable housing mechanisms and it was a requirement of the Court. Amendment to the Master Plan and the housing element which is an element of the Borough's Master Plan it provides a brief overview of the Borough's Fair Share Plan which is further elaborated in the Fair Housing element document and it goes through the various criteria and goes through each of the three sites including the New Bridge Landing Station, redevelopment area Kinderkamack and the New Bridge Road overlay zone. In accordance with the regulatory criteria there are four specific components that has to be addressed on each site: (1) is site approval able; (2) available; (3) developable and (4) suitable. An overview was done for each of the three sites and the Borough concluded that in fact all of those three sites available, approval able, develop able and suitable in accordance with the criteria. If the Board is amenable to this document it can be adopted as an amendment to the housing plan. Chairman Arakelian opens to the Board. The Board had no comments – Motion for adoption made by Mr. Mehrman – that the Board accept and approve the Master Plan Amendment for the 2020 Housing Element and Fair Housing Share Plan the site suitability analysis dated September 24, 2020 as prepared by Burgis Associates. Second – Mr. Batelloni. Roll call - Mr. Mayor -yes; Chairman Arakelian – yes; Ms. Boland is absent; Mr. Bartelloni – yes; Mr. Mehrman -yes; Mr. Grasso is absent tonight; Mr. Krey- yes; Mr. Caslin -yes; Councilman Chinigo – yes; Mr. Gibbons – yes; Mr. Esposito – yes. Motion passes.
2. Master Plan Consistency Review for the 2020 New Bridge Landing Station Redevelopment Plan dated September 17, 2020. The development site itself encompasses Bock 14.11 and Lots

1.01 and 1.02 as well as Block 14. 12 Lots 1,2 and 3. The new plan has been prepared in accordance with the local housing and redevelopment law. This plan provides what really is a conceptual and flexible frame work for the development of the site. It contemplates a mixed use transit oriented development similar to the 2007 plan but a smaller scale. The residential density that was agreed to in negotiating terms with the Fair Share Housing is 25 units per acre and a number of non-residential uses on the site. 20% affordable housing satisfied. Mr. Behrens goes over the whole site (concept plan) with the Board .

Ms. Stinley advises that there must be two separate votes; one on the consistency that this plan is not inconsistent with the Master Plan; and (2) for the Resolution that will be a report that will be delivered to the council and Mr. Alter distributed the Resolution to everyone – this is for New Bridge Landing.

Chairman Arakelian – first motion – this plan is not inconsistent with the Master Plan. So made, Mr. Mehrman, second, Mr. Chinigo. Roll call - Mr. Mayor -yes; Chairman Arakelian – yes; Ms. Boland is absent; Mr. Bartelloni – yes; Mr. Mehrman -yes; Mr. Grasso is absent tonight; Mr. Krey- yes; Mr. Caslin -yes; Councilman Chinigo – yes; Mr. Gibbons – yes; Mr. Esposito – yes. Motion passes.

A motion to accept the Plan and the Resolution as was distributed, So made – Mr. Mehrman, Second - Mr. Chinigo. Roll call - Mr. Mayor -yes; Chairman Arakelian – yes; Ms. Boland is absent; Mr. Bartelloni – yes; Mr. Mehrman -yes; Mr. Grasso is absent tonight; Mr. Krey- yes; Mr. Caslin -yes; Councilman Chinigo – yes; Mr. Gibbons – yes; Mr. Esposito – yes. Motion passes.

### **Master Plan Consistency Review of the 2020 Kinderkamack Road Redevelopment Plan**

1. The redevelopment area encompasses Block 14.13, Lots 1, 2.01, 4 and 5, tax records indicate that Lots 2.01 and 4 have been merged but for the purposes of clarity they have been kept separate, the overall site is less than 1 acre and it is privately held by several different entities. This site was designated an area of redevelopment by the Borough Council in 2006, a prior redevelopment plan had been prepared in 2008 which allowed for multi family development totaling 75units at about 78 units per acre in an about 8 story building. This plan was rescinded in June of 2018 to give the Borough an opportunity to re-evaluate this redevelopment area recognizing the site had not been developed in over 10 years in accordance with the plan and also to address the Borough's third round affordable housing criteria. This 2020 redevelopment plan addresses all the requirements of the local redevelopment housing law in terms of the process consistency with other plans and checks off all the boxes enumerated in the plan itself. It allows for mixed used development. The way to look at this plan is that it is a conceptual framework for some future prospective development or developer to come in with some concept and would have to develop within this framework or request relief from the Borough. In terms of satisfying the Master Plan consistency review, this plan satisfies a number of the Borough's Master Plan goals and objectives. Comments, questions and discussion among the Board members following Mr. Behrens presentation.



Chairman Arakelian – A Motion is made that this is in compliance with the Master Plan. So made, Mr. Mehrman, Second – Councilman Chinigo. Roll call - Mr. Mayor -yes; Chairman Arakelian – yes; Ms. Boland is absent; Mr. Bartelloni – yes; Mr. Mehrman -yes; Mr. Grasso is absent tonight; Mr. Krey- yes; Mr. Caslin -yes; Councilman Chinigo – yes; Mr. Gibbons – yes; Mr. Esposito – yes. Motion passes.

The next Motion is by recommendation of the Board to change the 5 foot setback to a 10 foot setback with the understanding that its a recommendation and the Council will make the final decision. Mr. Mehrman – notes that those two setbacks only apply to Kinderkamack and Ackerson Street the Route 4 and 5 foot would remain. So the Board will change Kinderkamack Road from 5 to 10 and Ackerson Street from 5 to 10. Route 4 at 5 would remain, that would be the recommendation of the Board. Mr. Mehrman makes the second motion with the setback recommendations, Second – Mayor Papaleo. Roll call - Mr. Mayor -yes; Chairman Arakelian – yes; Ms. Boland is absent; Mr. Bartelloni – no; Mr. Mehrman -yes; Mr. Grasso is absent tonight; Mr. Krey- yes; Mr. Caslin -yes; Councilman Chinigo – no; Mr. Gibbons – yes; Mr. Esposito – yes. Motion passes. The Board will recommend to the Myor and Council to change the two setbacks on Kinderkamack Road and Ackerson from 5 feet to 10 feet.

One more vote on the Resolution. Ms. Stinley advises that she did not include that in the Resolution so she will revise that. So the Motion will have to reflect the amendent. Motion to approve the Resolution as amended this evening. Mr. Mehrman makes the motion that the Board accept the amended Resolution, Second Mayor Papaleo. Roll call - Mr. Mayor -yes; Chairman Arakelian – yes; Ms. Boland is absent; Mr. Bartelloni – yes; Mr. Mehrman -yes; Mr. Grasso is absent tonight; Mr. Krey- yes; Mr. Caslin -yes; Councilman Chinigo – yes; Mr. Gibbons – yes; Mr. Esposito – yes. Motion passes. Motion to adjourn – So moved, Mr. Gibbons, Second, Mr. Bartelloni. All in favor, aye, any opposed, any abstained. Meeting adjourned.